

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

FILED
CLERKS OFFICE
2005 FEB 23 A 11:05

05-10352 RCL

U.S. DISTRICT COURT
DISTRICT OF MASS.

MAGISTRATE JUDGE

New Mag

MARIA ALVES
Plaintiff,

v.

CIVIL ACTION NO. _____

PAUL F. WALSH, JR.,
DISTRICT ATTORNEY AND
THE CITY OF FALL RIVER
Defendants,

RECEIPT # _____

AMOUNT \$ 250

SUMMONS ISSUED Yes

LOCAL RULE 4.1 _____

WAIVER FORM _____

MCF ISSUED _____

BY DPTY. CLK. DM

DATE 2/23/05

COMPLAINT AND DEMAND FOR JURY TRIAL

1. This action is brought by plaintiff, Maria Alves, against the defendant, Paul F. Walsh, Jr., in his capacity as the District Attorney for Bristol County and against the defendant, the City of Fall River Police Department, seeking damages for violations of civil rights and the return of \$22,810.00 that was wrongfully forfeited from Maria Alves in violation of the Fourth, Fifth and Fourteenth Amendment rights of the plaintiff established by the Constitution of the United States as well as Massachusetts General Laws, Chapter 94C, Section 47(d).

JURISDICTION

2. Count I is brought in the United States District Court pursuant to 28 U.S.C. §§1331 and 1343. Count II is brought pursuant to the Court's pendant jurisdiction

PARTIES

3. The Plaintiff, Maria Alves, is a citizen of the United States.

4. The defendant, Paul F. Walsh, Jr., is the District Attorney for Bristol County, Massachusetts, (hereafter "District Attorney") and he is statutorily authorized to file civil actions for forfeitures pursuant to Massachusetts General Laws, Chapter 94C, §47.

5. The City of Fall River is a municipality in the State of Massachusetts and is the responsible entity for the acts and omission of the Fall River Police Department.

FACTUAL ALLEGATIONS

6. On February 25, 2002, officers from the Fall River Police Department executed a search and seizure warrant at 4000 North Main Street, Apartment 37, Fall River, Massachusetts. The warrant was issued in connection with

an investigation regarding the sale of cocaine and marijuana by Jay Lee Alves.

7. Pursuant to the execution of the search warrant the officers seized, among other items, documents constituting a bank book and a certificate of deposit.

8. The bank book displayed a deposit of approximately \$16,910.97 in the Bristol County Savings Bank and the names of the owners were listed thereon as Jason Alves and Maria Alves. The certificate of deposit displayed a deposit of approximately \$5,000.00 in the Bristol County Savings Bank and the owner was listed as Jason Alves but the document was physically located within the bank book when the items were seized and the evidence of transactions in the bank book displayed that the moneys invested in the certificate of deposit were withdrawn from the moneys on deposit in the bank book on or about December 18, 2000.

9. As a result of the search and seizure warrant criminal charges were filed against Jason Alves in the Bristol County Superior Court, Indictment Number BRRCR2002-0321.

10. On May 12, 2003, 48 days after the conclusion of the criminal proceedings against Jason Alves the office of the District Attorney filed a motion to forfeit property (hereafter, the "Motion") that was seized in connection with the execution of the search and seizure warrant on February 25, 2002. The Motion is appended as Exhibit A.

11. The Motion was filed pursuant to the provisions of Massachusetts General Laws, Chapter 94C §47(b).

12. The items listed in the forfeiture Motion included: "The sum of \$16,910.97 in Bristol County Savings Bank, in the name of Jason Alves or Maria Alves" and "The sum of \$5,000.00 in a certificate of deposit." (Exhibit A, hereto, paragraphs 5 and 6 respectively.)

13. At the time the motion was filed neither the District Attorney nor the Fall River Police Department seized, secured or otherwise attached the moneys in the savings account or the certificate of deposit through any judicial or other legal process.

14. At the time the Motion was filed Maria Alves was not served with a notice of the motion and she had not been made a party to any action in which the motion was filed.

15. At no time has Maria Alves been made a party to the criminal forfeiture proceeding commenced by the District Attorney pursuant to Massachusetts General Laws, Chapter 94C, §47.

16. The office of the District Attorney called the Motion for hearing on May 23, 2003 without providing notice of the hearing to Maria Alves.

17. A judge of the Superior Court for the Commonwealth of Massachusetts acted upon the District Attorney's Motion on June 5, 2003 and ordered the property listed in the motion to be "forfeited to the Commonwealth of Massachusetts and distributed by the Bristol County District Attorney in accordance with G.L. c. 94C, §47(d)." (Exhibits A and B, hereto.)

18. The motion judge was not advised by the District Attorney that Maria Alves was an interested party who was statutorily entitled to notice of the proceeding and who could file a claim in defense of the District Attorney's Motion.

19. After the Order of Forfeiture was entered in the Bristol County Superior Court on June 5, 2003 no process of any kind was directed to the Bristol County Savings

Bank to effectuate the Order for any specific account or certificate of deposit, Exhibit B, hereto.

20. The District Attorney is statutorily permitted to file forfeiture actions within a related criminal proceeding or through a separate civil action pursuant to the provisions of Massachusetts General Laws, Chapter 94C, §47(d).

21. Regardless of his choice of filing the District Attorney is charged with the responsibility to give notice of the forfeiture proceeding to the owner of the property or to "such other persons as appear to have an interest therein...." Massachusetts General Laws, Chapter 94C, §47(d).

22. The District Attorney had actual notice that Maria Alves was a person who had an interest in the money on deposit in the bank book and the certificate of deposit but intentionally, negligently or recklessly failed to provide Maria Alves with notice pursuant to the statutory requirements.

23. Prior to the hearing of the District Attorney's Motion the motion judge requested the Assistant Clerk of the Superior Court to inquire of the attorney

representing Jason Alves as to whether Jason Alves would file an opposition to the District Attorney's Motion.

24. After the Clerk's inquiry the motion judge entered an order of forfeiture in accordance with the District Attorney's Motion.

25. Jason Alves's Attorney has never represented Maria Alves or her interest in the forfeiture proceeding and his role in representing Jason Alves is not a legal substitute for any possible representation of Maria Alves's interest in the forfeiture proceeding.

26. Jason Alves's Attorney has never spoken with Maria Alves.

27. Without lawful process, on August 25, 2003 the District Attorney accessed Maria Alves' moneys from the Bristol County Savings Bank. The proceeds from the bank book and the certificate of deposit were distributed to the District Attorney by the checks appended hereto as Exhibit C.

28. On August 28, 2003 the District Attorney moved to amend the Order of Forfeiture to add additional sums that accrued to the accounts. This motion to amend was filed,

marked for hearing and "allowed" after hearing, without any notice to Maria Alves. (Exhibit D, hereto.)

29. Pursuant to the provisions of Massachusetts General Laws, Chapter 94C, §47(d), on information and belief, the District Attorney retained one-half of the moneys received from the Bristol County Savings Bank and he distributed the other one-half of the moneys to the Fall River Police Department.

30. On June 12, 2003, Without knowledge of the June 5, 2003 Order of Forfeiture, Maria Alves's counsel made inquiry to the representative of the District Attorney's office who was charged with preparing forfeiture matters. The inquiry was to secure an agreement for the release of the potential forfeiture claim against the moneys in the savings account and the certificate of deposit. The representative requested copies of documentation supporting Maria Alves' claim and also requested that the claim be placed in writing.

31. On and after June 12, 2003, Maria Alves collected documentation to prove her entitlement to the moneys on deposit in the bank book and the certificate of deposit.

32. On July 31, 2003 Maria Alves made a written request to the District Attorney seeking to have the District Attorney release any forfeiture claim against the moneys in the bank book and the certificate of deposit. A true copy of the request (without the attached documents) is appended as Exhibit D, hereto.

33. The District Attorney did not respond to the July 31, 2003 request and did not provide notice that an order of forfeiture had previously been entered with respect to the moneys.

34. The conduct of the District Attorney displayed by his failure to notify Maria Alves of the forfeiture Motion and subsequent proceedings indicates an intention by the District Attorney to deprive Maria Alves of her ability to participate in proceedings to oppose the forfeiture of the moneys in the savings account and the certificate of deposit.

35. On December 3, 2003, Maria Alves filed motions in the Bristol County Superior Court seeking to intervene in the forfeiture proceedings and to vacate the prior Order of Forfeiture.

36. The District Attorney filed an opposition to the motion asserting the following position:

"The Commonwealth's obligation is to notify the legal owners of the property at issue for forfeiture. The Commonwealth is not obligated to speculate as to rightful owner of monies when it provides notice of a forfeiture motion." (Paragraph 8, Commonwealth's Opposition to Maria Alves' Motion to Vacate Forfeiture Order.)

37. The addition Maria Alves to the group of potential parties who had an interest in opposing the forfeiture required no speculation by the District Attorney in this matter.

38. Maria Alves has never been properly notified of any forfeiture action, she has not been made party to any forfeiture proceeding and she has never been afforded an opportunity to contest the Order of Forfeiture which entered on June 5, 2003, or any subsequent amendment of the order.

39. After hearing the Superior Court for the Commonwealth of Massachusetts denied Maria Alves's Motion to Vacate Forfeiture Order and Motion to Intervene but ruled that such denial was "without prejudice to Maria Alves' rights to pursue a civil remedy." (February 23, 2003, notation on Motion to Vacate Forfeiture Order.)

40. The District Attorney is not entitled to the defense of absolute immunity or qualified immunity in this matter. The District Attorney has not performed the traditional function of an advocate when his office presented the Motion to Forfeit Cash and Property in this matter.

41. With respect to the forfeiture proceeding in this matter the District Attorney is an interested party rather than an advocate. From whatever moneys might be forfeited through the forfeiture Motion the District Attorney is allowed to retain one-half of the moneys for use by his office and these moneys are not subject to any reasonable government oversight or budgetary controls. Although statutorily restricted to a certain extent the moneys that are forfeited in these types of proceedings may be distributed in the sole discretion of the District Attorney.

COUNT I

42. Maria Alves has been deprived of her property without due process of law as guaranteed by the Fifth and Fourteenth Amendments to the Constitution of the United States and Title 42 United States Code, Sections 1983 and 1988.

43. Maria Alves has been deprived of her property in violation of the Fourth Amendment to the Constitution of the United States and the protections afforded by the Massachusetts Declarations of Rights as well as Massachusetts General Laws, Chapter 94C, Section 47(d).

44. The defendants failed to afford notice of any kind to Maria Alves of their intention to forfeit her property and failed to observe the statutory and constitutional requirements for notice and hearing.

45. The conduct of the District Attorney, under color of authority, has deprived Maria Alves of her property and has caused her to suffer great expense and anguish in the assertion of her rights to regain the property.

WHEREFORE, Plaintiff, Maria Alves, prays for judgment against the defendants for damages in an amount that this Court deems proper, plus costs, reasonable attorneys fees and statutory interest provided in accordance with the Laws of the Commonwealth of Massachusetts at the rate of 12 percent from the date such moneys were wrongfully seized.

COUNT II

46. Prior to opening the savings account at the Bristol County Savings Bank Maria Alves owed a tax debt to the Massachusetts Department of Revenue. Maria Alves made a written agreement with the Department of Revenue to repay this tax debt. At the time of the agreement she was advised by the representative of the Department of Revenue that any money listed in a bank account listing Maria Alves's social security number would be subject to seizure by the Department of Revenue.

47. Maria Alves was further advised by the representative that she could maintain a bank account in the name and social security number of another individual while she paid her debt pursuant to the agreement.

48. Maria Alves alleges that moneys on deposit in the savings account and certificate of deposit at the Bristol County Savings Bank were her property.

49. The moneys that were deposited in the savings account and the certificate of deposit at the Bristol County Savings Bank were not furnished or intended to be furnished by any person in exchange for a controlled substance in violation of G.L., C 94C; were not proceeds traceable to such an exchange; and, were not used or

intended to be used to facilitate any violation of the respective sections of G.L., C94C, evidence of which would permit a forfeiture of the moneys.

50. Pursuant to the requirements of G.L., C. 94C, the Commonwealth has the burden of proving to a court the existence of probable cause to institute a forfeiture action and then a claimant such as Maria Alves has the burden of proving that the property is not forfeitable pursuant to subparagraph (5) of C. 94C, Section 47.

51. There is no evidence whatsoever that the moneys in the savings account or the certificate of deposit were in any way related to a violation of G.L., C. 94C by Jason Alves or any other person and the Commonwealth cannot sustain its burden to display probable cause for forfeiture.

52. The only connection between Maria Alves's moneys and Jason Alves was the fact that Jason Alves was holding the money for the benefit of Maria Alves because the money could not be deposited in Maria Alves's own name and social security number.

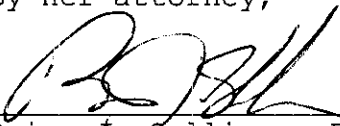
WHEREFORE, Plaintiff, Maria Alves, prays for judgment against the defendants along with a declaration

and order for the return of the amounts on deposit in the bank book and certificate of deposit, together with accumulated interest plus costs, reasonable attorneys fees and statutory interest provided in accordance with the Laws of the Commonwealth of Massachusetts at the rate of 12 percent from the date such moneys were wrongfully seized.

JURY DEMAND

Maria Alves demands a trial by jury on all claims which she has a right to a trial by jury.

Maria Alves
By her attorney,

A handwritten signature in black ink, appearing to read "B. J. Sullivan", is written over a horizontal line.

Brian J. Sullivan, Esq.
10 Purchase Street, Fifth Floor
Fall River, Massachusetts 02720
BBO#484990) (508) 679-7998

Exhibit A

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURTINDICTMENT NO. BRCR2002-0322
BRCR2002-0321

MAY 12

POLICE REPORT # R020653

COMMONWEALTH

v.

MOTION TO FORFEIT CASH
AND PROPERTYJason Alves, Jay Lee Alves
Defendant

Now comes the Commonwealth pursuant to the provisions of G.L. c. 94C, S 47(b) and moves this Court issue a written order that all jewelry and the sum of Thirty-five thousand eight hundred fifty eight dollars and ninety seven cents (\$35,858.97) in United States currency be forfeited to the Commonwealth of Massachusetts and distributed by the Bristol County District Attorney in accordance with G.L. c. 94C, S 47(d). Jewelry and monies in the total sum of \$35,858.97, were seized by Fall River Police Department broken down as follows:

1. \$1,255.00 in cash found in Jason Alves' bedroom.
2. \$6,000.00 in cash found in safe in Jason Alves' bedroom.
3. Three money rolls cash totaling \$6,600.00, \$2,200.00, \$3,100.00 and \$1,400.00 found in a secured safe within the Alves' apartment.
4. Cash in total of \$93.00 found in Jay Lee Alves' room.
5. The sum of \$16,910.97 in Bristol County Savings Bank, in the name Jason Alves or Maria Alves.
6. The sum of \$5,000.00 in a certificate of deposit.
7. One appraised 14k white gold bracelet w/ diamonds. Total weight 11.121.01ct.

6/5/03 The Clerk having telephoned defendant's counsel, Van Coten and Heenan, on 5/22/03 to inquire about any opposition, the Clerk having been advised copies of this motion on 5/22/03, and the Clerk having followed-up by telephone on 5/30/03, and there being no opposition to this motion, the motion is allowed. (Kane, J.) *NOF*

8. One appraised square bracelet, 14k white gold w/ diamonds. Total weight 10.07 ct.
9. One 14k white gold and diamond pendant (cross) Total weight diamond 7.7 ct.
10. Two Movado watches.
11. Two silver rings with diamonds or similiar looking stone. No estimate.
12. Two ear rings with price tag 705.00 .25 ct.
13. One bracelet, gold tint, with diamonds or a similiar looking stone.
14. One silver hugs and kisses bracelet with diamonds or a similiar looking stone.

These monies and jewelry were ordered forfeited by Judge Robert Kane on March 25, 2003 on the oral motion of the Commonwealth.

As grounds for this motion, the Commonwealth states that the moneys were proceeds from the sale of a controlled substance, were intended to be furnished by a person in exchange for a controlled substance in violation of General Laws, Chapter 94C; or, the Thirty-five thousand eight hundred fifty eight dollars and ninety seven cents and jewelry were intended to be used to facilitate a violation of General Laws, Chapter 94C, Sections: thirty-two, thirty-two A, thirty-two B, thirty-two C, thirty-two D, thirty-two E, thirty-two F, thirty-two G, thirty-two I, thirty-two J, or forty.

The Commonwealth
By it's attorney

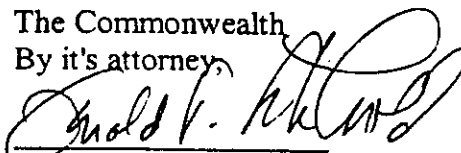

Gerald T. FitzGerald
Assistant District Attorney
For the Bristol District

Exhibit B

#12

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, SS

BRISTOL, SS

SUPERIOR COURT

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

FILED

INDICTMENT NO. BRCR2002-0321

BRCR2002-0322

POLICE REPORT # R020653

JUN - 5 2003

COMMONWEALTH

MARC J. SHAW, JR., INT.
CLERK/MAGISTRATE

ORDER OF FORFEITURE CASH
AND PROPERTY

V.

Jason Alves, Jay Lee Alves
Defendant

This action came on for hearing before the Court, March 25, 2003, J.Kane presiding, upon the motion of the Commonwealth for forfeiture of property pursuant to the provisions of G.L. c. 94C, S47 (b) and, upon consideration thereof, it is ORDERED AND ADJUDGED:

That the sum of Thirty-five thousand eight hundred fifty eight dollars and ninety seven cents (\$ 35,858.97) in United States currency and the jewelry listed on the sheet annexed here to and incorporated herein shall be forfeited to the Commonwealth of Massachusetts and distributed by the Bristol County District Attorney in accordance with the provisions of General Laws, Chapter 94C, S47(d).

Dated at Bristol County, Massachusetts, this day of May, 2003.

JUSTICE

Robert Kane 6/5/2003

Exhibit C



BRCLR2002-0321

PAY

To Commonwealth of Mass office of the
District Attorney
the PO Box 973
of New Bedford, MA 02741

OFFICIAL CHECK

22-1676
960

100006300

August 25, 2003

\$**17,293.67

CUSTOMER COPY - NON NEGOTIABLE

Savings Act.



BRCLR2002-0321

PAY

To Commonwealth of Mass office of the
District Attorney
the PO Box 973
of New Bedford, MA 02741

OFFICIAL CHECK

22-1676
960

100006299

August 25, 2003

\$**5,516.33

CUSTOMER COPY - NON NEGOTIABLE

Anticipated

2003-11-17

Exhibit D

COMMONWEALTH OF MASSACHUSETTS
FILED
SEP - 2 2003
MARC J. SANTOS, ESQ.
CLERK/MAGISTRATE
BRISTOL, SS
SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
INDICTMENT NO. BRCR2002-0322
BRCR2002-0321

MOTION TO AMEND ORDER OF
FORFEITURE

Jason Alves, Jay Lee Alves
Defendant

Now comes the Commonwealth pursuant to the provisions of G.L. c. 94C, S 47(b) and moves this Court amend its already allowed motions to forfeit (annexed hereto and incorporated herein for all purposes) by including the interest amount generated during the pendency of this case. Interest on Bristol County Savings Bank account is \$382.70 (three hundred eighty-two dollars and seventy cents), and interest on the Certificate of Deposit is \$516.33 (five hundred sixteen dollars and thirty-three cents), be forfeited to the Commonwealth of Massachusetts and distributed by the Bristol County District Attorney in accordance with G.L. c. 94C, S 47(d).

The Commonwealth
By it's attorney,

Gerald T. FitzGerald
Assistant District Attorney
For the Bristol District
BBO# 168830

August 29, 2003

Albared - no opposition entered

Case 05-163
Albared - no opposition entered

Attorney Brian J. Sullivan

10 Purchase Street, Fifth Floor
Fall River, Massachusetts 02720

Area Code 508
Telephone 679-7998
FAX 508-674-3610

July 31, 2003

Robert L. Goodale, Esq.
Bristol County District Attorney's Office
75 North Sixth Street
New Bedford, Massachusetts 02740

Re: Commonwealth v. A Certain Sum on Deposit in
Bristol County Savings Bank
Maria Alves and Jason Alves

Dear Attorney Goodale:

I represent Maria Alves, the joint owner of the account and CD on deposit with the Bristol County Savings Bank. I write to request the Commonwealth's release of the above referenced moneys from any forfeiture claim that could be filed.

It is my understanding that Jason Alves entered a guilty plea on the criminal charges that were lodged after the search and seizures by Fall River police officers. It is also my understanding that the cash and property that were seized from Jason has been forfeited through his plea agreement but that no action was taken against the bank account or the CD. Maria Alves has never been notified of any forfeiture action involving the savings account or the CD.

At this time I ask that you consider Maria Alves' claim that the moneys held in the savings account and the CD were her property and such were listed in the name of Jason Alves for convenience purposes only. Maria Alves was the subject of a Massachusetts Department of Revenue collection action for sales/use taxes dating between 1996 and 1998. Mrs. Alves made an agreement to repay the amount due to the DOR but she was warned that any bank account that was listed in her name could immediately be seized by the Commonwealth to satisfy the tax debt. I enclose proof of the tax debt for your review. I am told that full repayment to the DOR has now been made.

Please note that the savings account was opened on April 6, 1998, near in time to the DOR assessment, and the account was established in both Jason Alves' and Maria Alves'

names. Although income was to be declared in Jason's Social Security number Maria Alves has always retained the right to withdraw the moneys on her own signature.

I believe that this account is the only bank account that Mrs. Alves could use to cash checks and conduct transactions. Mrs. Alves has been employed as a health care worker during the time between the establishment of the account and the date of Jason's arrest. I enclose the first page of her 2000 and 2001 federal tax forms as proof of income.

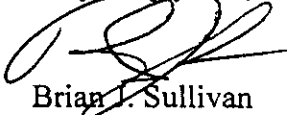
During the pendency of the account the sum of \$5,000.00 was removed from the savings account to open a CD. Mrs. Alves was earning an insignificant amount of interest in the savings account and she sought a higher return on her deposit through the CD. The evidence of the CD which was seized by the Fall River officers was a proceed from Mrs. Alves account. The transaction history for the month of December, 2000, is enclosed. This document was obtained from the bank but I believe you will observe the same information in the passbook.

It is apparent that the Commonwealth would not have an in rem claim on the account or the CD since there was no actual seizure of the moneys at the time the police officers seized evidence of the savings account and the CD. It is my understanding that the Commonwealth has not filed any action or sought a warrant to properly seize the account or the amount in the CD as would be required in accordance with Ch. 276.

On the merits, however, it is apparent that there is no evidence which displays that these moneys were furnished or intended to be furnished by any person in exchange for a controlled substance in violation of Ch. 94C; or that such moneys were the proceeds traceable to such an exchange; or that the moneys were used or intended to be used to facilitate a violation of the enumerated sections of Ch. 94C.

I urge you to concur with my request to release any claim to these moneys. Mrs. Alves would like the peace of mind to be free of any potential claim against the moneys by the Commonwealth. Mrs. Alves has lost the benefit of free use of the moneys since the date of Jason's arrest. If you agree with our request I ask that you provide a simple letter stating so. If you do not agree with our request I ask that the Commonwealth institute a forfeiture proceeding without further delay.

Very truly yours,



Brian J. Sullivan

Enclosures: Department of Revenue Notice
Bristol County Savings Bank, signature card
2000 and 2001 federal tax forms
Account transaction history, December 2000

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Maria Alves

(b) County of Residence of First Listed Plaintiff Bristol
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Brian J. Sullivan Esq. 00720
10 Purchase St. Fifth Fl. Fall River MA

DEFENDANTS

Paul F. Walsh, Jr., District Attorney
City of Fall River
County of Residence of First Listed Defendant Bristol
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition				

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. 1983 and 1988

Brief description of cause:

forfeiture of moneys without notice to owner

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Marie Alves v. Paul F. Walsh Jr.,
District Attorney
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
-
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
- YES ☐ NO ☒
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)
- YES ☐ NO ☒
- If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?
- YES ☐ NO ☐
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?
- YES ☐ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
- YES ☒ NO ☐
- A. If yes, in which division do all of the non-governmental parties reside?
- Eastern Division ☒ Central Division ☐ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
- Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)
- YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Brian T. Sullivan Esq.

ADDRESS 10 Purchase St. Fifth Floor Fall River MA 02720

TELEPHONE NO. 508-629-7998